

Department of Health and Human Services MaineCare Services 11 State House Station Augusta, Maine 04333-0011 Tel. (207) 287-2674 Fax (207) 287-2675; TTY (800) 423-4331

DATE: July 28, 2011

TO: Interested Parties

FROM: Patricia Dushuttle, Director, Policy Division, MaineCare Services

CC: Stefanie Nadeau, Director, MaineCare Services

SUBJECT: Adoption Final Major Substantive Rule - Chapter 101, MaineCare Benefits

Manual, Chapter III, Section 50, Principles of Reimbursement for

Intermediate Care Facilities for the Mentally Retarded

This rule permanently adopts a provisionally adopted major substantive rule which eliminates costs for Community Support Services (formerly called Day Habilitation Services) as part of the cost basis of the per diem rate for Intermediate Care Facilities for the Mentally Retarded. Instead, the rule refers providers to the reimbursement methods and rate for Community Support Services set forth in MaineCare Benefits Manual (MBM), Chapters II and III, Section 21. The amendment is made necessary by the repeal of MBM, Section 24, Day Habilitation Services. The amendment will also allow the billing code for this service to conform to federally required codes and the implementation of the Department's new claims processing system.

This change was adopted on an emergency basis effective April 1, 2010 pursuant to the state budget adopted in P.L. 2009, ch. 213. The Legislature authorized the adoption of this rule on June 21, 2011.

Rules and related rulemaking documents may be reviewed and printed from the Office of MaineCare Services website at http://www.maine.gov/dhhs/oms/rules/provider_rules_policies.htm

For a fee, interested parties may request a paper copy of rules by calling 207-287-9368. For those who are deaf or hard of hearing and have a TTY machine, the TTY number is 1-800-606-0215.

A copy of the public comments and Department responses can be viewed at and printed from MaineCare Services website or obtained by calling 207-287-9368 or TTY: (207) 287-1828 or 1-800-606-0215.

If you have any questions regarding policy, please contact Member Services, 1-800-977-6740 or the Provider Relations specialist assigned to your county. Their phone numbers are available on the internet at http://www.maine.gov/dhhs/oms/provider_index.html. For TTY: (207) 287-1828 or 1-800-423-4331.

Notice of Agency Rule-making Adoption

AGENCY: Department of Health and Human Services, Office of MaineCare Services

CHAPTER NUMBER AND TITLE: MaineCare Benefits Manual, Chapter III, Section 50, Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded

ADOPTED RULE NUMBER: 10-144

CONCISE SUMMARY: This rule permanently adopts a provisionally adopted major substantive rule which eliminates costs for Community Support Services (formerly called Day Habilitation Services) as part of the cost basis of the per diem rate for Intermediate Care Facilities for the Mentally Retarded. Instead, the rule refers providers to the reimbursement methods and rate for Community Support Services set forth in MaineCare Benefits Manual (MBM), Chapters II and III, Section 21. The amendment is made necessary by the repeal of MBM, Section 24, Day Habilitation Services. The amendment will also allow the billing code for this service to conform to federally required codes and the implementation of the Department's new claims processing system. This change was adopted on an emergency basis effective April 1, 2010. The Legislature authorized the adoption of this rule on June 21, 2011. This rule change does not have any adverse economic impact on municipal or county governments or small businesses.

See http://www.maine.gov/dhhs/oms/rules/provider_rules_policies.html for rules and related rulemaking documents.

EFFECTIVE DATE: September 2, 2011

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10-144 CHAPTER 101 MAINECARE BENEFITS MANUAL CHAPTER III

SECTION 50

PRINCIPLES of REIMBURSEMENT for

INTERMEDIATE CARE FACILITIES for the MENTALLY RETARDED ESTABLISHED 7/1/80 LAST UPDATED 9/2/11

4000 VARIABLE COST COMPONENT (cont.)

Eff. Date 9/2/11

- 4170 Community Support Services Outside of the Facility
- The staffing costs of the facility will not be allowed during the time members are attending outside Community Support programs, unless a member is unable to attend due to illness, etc., unless such staffing costs are approved by the DHHS Office of Adults with Physical and Cognitive Disabilities. If such a situation occurs, only a minimal amount of staffing required to assist the member not attending Community Support will be allowed.
- The Department of Health and Human Services will reimburse Community Support services in accordance with Section 21, Chapters II & III, Home and Community Benefits for Members with Intellectual Disabilities or Autistic Disorder. The costs associated with Community Support are not included in the ICF/MR per diem rate.
- 4180 Costs Attributable to Asset Sales. Costs attributable to the negotiation of settlement or a sale or purchase of any capital asset (by acquisition or merger) are not allowable costs. Included among such unallowable costs are: legal fees, accounting and administrative costs, appraisal fees, banking and broker fees, travel costs, and the cost of feasibility studies.

5000 SPECIAL SERVICE ALLOWANCE

- 5010 Principle. A special service is to be distinguished from a routine service.
 - 5010.1 A special service is that of an individual nature required in the case of a specific member. This service is limited to professional services such as physical therapy, occupational therapy, and speech and hearing services. Special services of this nature must be billed monthly to the Department as separate items required for the care of individual members.

6000 LABOR COST COMPONENT

- 6010 Wages: Reasonable costs incurred for personnel wages will be reimbursed at actual cost.
- 6011 All Facility Staff:
 - 6011.1 The reasonable allowable cost of wages for personnel employed on site at the facility shall be determined based on the lesser of actual hours worked, or hours approved by the Department.
 - 6011.2 Direct care staff hours related to mandatory programs, as specified in Section 3005.10, above, will be considered allowable and will be reimbursed at the actual hourly wage for the relevant category of direct care staff.

10-144 CHAPTER 101 MAINECARE BENEFITS MANUAL CHAPTER III

SECTION 50 PRINCIPLES of REIMBURSEMENT for INTERMEDIATE CARE

FACILITIES for the MENTALLY RETARDED ESTABLISHED 7/1/80 LAST UPDATED 9/2/11

6011.3 Contract labor costs for RNs, LPNs, and CNAs working on-site are an allowable labor cost. Contract labor hours must be included with the direct care worked hours for the comparison to approved hours.